

ORIGINAL

FILED

SEP 1 - 2016

BEFORE THE  
FEDERAL MARITIME COMMISSION

DOCKET NO. 15-11

Federal Maritime Commission  
Office of the Secretary

IGOR OVCHINNIKOV, IRINA RZAEVA, and DENIS NEKIPELOV,

— vs. —

MICHAEL HITRINOV a/k/a  
MICHAEL KHITRINOV,  
EMPIRE UNITED LINES CO., INC., and CARCONT, LTD.

INFORMAL DOCKET NO.: 1953(I)

KAIRAT NURGAZINOV,

— vs. —

MICHAEL HITRINOV a/k/a  
MICHAEL KHITRINOV,  
EMPIRE UNITED LINES CO., INC., and CARCONT, LTD.

**COMPLAINANTS' REPLY TO RESPONDENTS' RESPONSE TO COMPLAINANTS'  
MOTION TO SUPPLEMENT THE RECORD**

Pursuant to Rules 69 and 71 of the Federal Maritime Commission's (the "Commission") Rules of Practice and Procedure (46 C.F.R. 502 *et seq.*), Complainants, through their Counsel, Marcus A. Nussbaum, Esq. respectfully submit this Reply To Respondents' Response To Complainants' Motion To Supplement The Record.

With regard to Mr. Jeffrey's plaintive remonstrance as to complainants' alleged failure to make a "good faith effort" to 'meet and confer' upon the issue underlying the relief sought in complainants' instant motion, the Presiding Officer is respectfully referred to that which was set

forth in complainants' recent submission on respondents' Motion for Judgment on the Pleadings, which is incorporated herein and made a part hereof, and which sets forth as follows:

"In the first instance, we note the patently absurd argument of Mr. Jeffrey, who has abysmally failed to meet the so-called "condition precedent" of conferring with an adversary with regard to each and every one of respondents' endless and frivolous submissions, to wit: that complainants allegedly failed to satisfy said "condition precedent". Succinctly stated, "what is good for the goose is good for the gander", even when dealing with a jackass." (See, Complainants' Reply to Respondents' Response to Complainants' Motion for Leave to File a Sur-Reply, pp. 1-2)

As to Mr. Jeffrey's questioning why the record should be supplemented in the form of the Certification annexed to complainants' motion and as the Presiding Officer is well aware, it was Mr. Jeffrey acting as advocate, unretained counsel, and ghost writer of the affidavits of non-party Kapustin who affirmatively introduced Kapustin into these proceedings by authoring the maniacal submissions with which Kapustin has bombarded the Presiding Officer, albeit that said submissions have in fact been authored by Mr. Jeffrey.

Mr. Jeffrey has further, amidst admitting that Kapustin is a "liar", vaunted and advocated for Kapustin, supported Kapustin's positions and arguments, and has generally furthered Kapustin's attempted intervention into a matter in which he has neither standing nor interest. Having thus irrevocably made Kapustin a part of respondents' Motion for Judgment on the Pleadings, Mr. Jeffrey has opened the door for the supplementing of the record pertaining thereto with material which further confirms Kapustin's status as a liar, cheat, fraud, and a master criminal as found by a Court of parallel and competent jurisdiction via the decision of the Hon. Noel Hillman of which the Presiding Officer has been apprised.

It is thus elemental (apparently to all but Mr. Jeffrey) that the Certification of an attorney in good standing in the jurisdiction within which she practices, which provides facts so as to inform the Presiding Officer of the breadth, scope, and level of Kapustin's deceitful, dishonest, and

fraudulent practices is not only relevant, but now germane to respondents' pending Motion for Judgment on the Pleadings, having been repeatedly and forcibly inserted thereto by Mr. Jeffrey.

Consequently, and as Mr. Jeffrey has sought to supplant his failed arguments made in support of his ill-founded motion by reliance on Kapustin, it is further elemental (again, to all but Mr. Jeffrey) that Kapustin's credibility has now been made an issue by Mr. Jeffrey with respect to respondents' pending motion, and that the Certification of Maria Temkin, Esq. is relevant and deserving of being made a part of the record hereon as it reflects directly on Kapustin's credibility; more particularly, the pronounced lack thereof.

With regard to the wild-eyed and reckless accusations that emails from the mentally disturbed and unbalanced Kapustin as annexed to the attorney's Certification with which complainants seek to supplement the record, were allegedly written in response to purported "duress" imposed by complainants' counsel, needless to say, apart from such baseless accusations, Mr. Jeffrey provides *nothing* other than his own vile and vitriol in support of same, ostensibly out of a pronounced inability to provide any other "support" for such delusional theorization.

As to Mr. Jeffrey's continued aspersions made against complainants' counsel's "veracity", and stated bluntly, Mr. Jeffrey has from the inception of this litigation (1) violated the Rules of Practice and Procedure of the Commission with impunity; (2) bludgeoned the Presiding Officer and complainants' counsel with endless motions, responses, requests, and submissions that are unprecedented in their number prior to depositions being held in this or any other matter; (3) repeatedly lied and defrauded his way through this litigation including but not limited to collusion with Kapustin, one Jon Werner, Esq., and his own client; and most disgustingly, having used the death of a family member as a pretext for deceitfully and unjustly garnering additional and undeserved time to construct and further his endless series of submissions to the Presiding Officer

and complainants' counsel. Consequently, it is respectfully submitted that Mr. Jeffrey is the last person to question *anyone's* veracity or truthfulness in light of his demonstrated and pronounced lack thereof.

With regard to Mr. Jeffrey's reference that it is allegedly complainants' counsel who has sought to "paint" Kapustin as a liar, it is respectfully submitted that the portrait of Kapustin as a fraud, cheat, liar, and master criminal has already been painted by the Honorable Judge Hillman and thus requires no retouching by complainants' counsel. Conspicuously ignored by Mr. Jeffrey, however, is the very reason why the record is sought to be supplemented herein in the form of a Certification of a second attorney, inclusive of the affiant's separate and individual conclusions about Kapustin which stand on their own merit alongside those of complainants' counsel.

Complainants' counsel will not dignify by response Mr. Jeffrey's equally wild-eyed and desperately reckless accusations and characterizations of the aforementioned Ms. Temkin as a "partner in crime" other than to note that if anyone has committed "crimes" in this litigation it is respondent Hitrinov and his counsel through their submission of a fraudulent affirmation bearing a forged signature of Hitrinov, together with Mr. Jeffrey's instant collusion with Kapustin to further defraud the Commission. Complainants' counsel will respectfully rely upon the Presiding Officer's discretion as to whether at the close of this litigation, a referral to the office of the United States Attorney with respect to the acts, conduct, and behavior of Kapustin, Mr. Jeffrey, and his client Hitrinov, is appropriate.

As to Mr. Jeffrey's fallacious contention that there are "issues" as to who complainants' counsel "actually represents" it is respectfully submitted that the foregoing is a textbook example of the psychological phenomenon known as "projection" wherein while it remains crystal clear (again, to all but Mr. Jeffrey) as to whom complainants' counsel represents, to wit: the named

complainants herein, if there are any issues as to representation in this matter, they revolve solely around Mr. Jeffrey's unretained "representation" of Kapustin, to the exclusion of his own clients' defense and interest.

With regard to Mr. Jeffrey's bizarre, incomprehensible, and unintelligible ravings as to an alleged divergence of interests between the complainants herein, and the parties to the action in which Ms. Temkin is a participant, it is respectfully submitted that the fact that there may be no unity of interest between these parties *gives credence to*, rather than belies (or creates "ethical" questions as absurdly propounded by Mr. Jeffrey) as to the veracity of the representations contained therein; as such representations go directly to Kapustin's utter lack of credibility; and as such lack of credibility warrants a complete rejection by the Presiding Officer of any and all of Kapustin's submissions or Mr. Jeffrey's failed arguments thereon as either pertain to respondents' pending Motion for Judgment on the Pleadings herein.

Despite Mr. Jeffrey's megalomaniacal world view of himself as the arbiter of all law and facts in this matter, one thing remains clear. At no time will Mr. Jeffrey be permitted to intrude or insert himself into the attorney-client relationship between complainants' counsel and the complainants herein despite his best, albeit grossly unethical and unsupported attempts to do so. Specifically, if Mr. Jeffrey's vomiting up allegations of any alleged "conflict of interest" are anything but a complete sham, it is suggested that Mr. Jeffrey interpose a motion to have complainants' counsel disqualified due to an alleged conflict of interest as opposed to making wholly unsubstantiated and unethical allegations; alternatively stated, Mr. Jeffrey should "put up or shut up" on such a ridiculous non-issue. What is evident, however, is that there is no ethical standard which Mr. Jeffrey will not breach; no low to which Mr. Jeffrey will not stoop; no lie that

Mr. Jeffrey will not tell; and no depth to which Mr. Jeffrey will not sink in furtherance of pursuing his distorted, personal, and legally bereft agenda in this litigation.

In conclusion, and despite the extremely distasteful argument which complainants' counsel has been compelled to interpose due to the behavior, conduct, and unethical practice of Mr. Jeffrey which is not only violative of the Rules of Practice and Procedure of the Commission, but also entirely unbecoming to an attorney practicing in *any* venue, Mr. Jeffrey's purported Response is no "response" at all, in that Mr. Jeffrey has abjectly failed to interpose any cogent argument in opposition to supplementing the record with the Certification of Ms. Temkin. In the absence of same, Mr. Jeffrey has merely regurgitated, *ad nauseum*, failed arguments and personal invective set forth in multiple other submissions, albeit that such invective sinks to new lows and requires firmer responses with each submission.

Having failed to provide the Presiding Officer with any such cogent argument, reasons, or good faith basis as to why the record should not be supplemented by complainants herein, it is respectfully submitted that the record now be so supplemented, regardless of any inevitable, further, and pointless submission of Mr. Jeffrey which will surely follow the filing of complainants' instant reply.

Dated: September 1, 2016  
Brooklyn, New York

Respectfully Submitted,

A handwritten signature in dark ink, appearing to read 'Marcus A. Nussbaum', with a stylized flourish at the end.

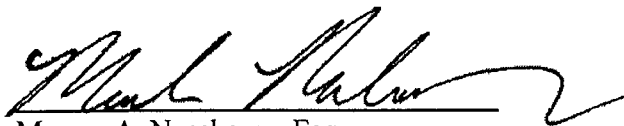
Marcus A. Nussbaum, Esq.  
P.O. Box 245599  
Brooklyn, NY 11224  
Tel: 888-426-4370  
Fax: 347-572-0439  
Attorney for Complainants  
marcus.nussbaum@gmail.com

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served the **COMPLAINANTS' REPLY TO RESPONDENTS' RESPONSE TO COMPLAINANTS' MOTION TO SUPPLEMENT THE RECORD** upon Respondents' Counsel at the following address:

Nixon Peabody LLP  
Attn: Eric C. Jeffrey, Esq.  
799 9th Street NW, Suite 500  
Washington, DC 20001-4501

by first class mail, postage prepaid, and by email (ejeffrey@nixonpeabody.com).

A handwritten signature in black ink, appearing to read "Marcus A. Nussbaum", with a long horizontal flourish extending to the right.

Marcus A. Nussbaum, Esq.  
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Dated: September 1, 2016 in Brooklyn, New York.

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OFFICE OF THE SECRETARY  
FEDERAL MARITIME COMMISSION

September 1, 2016

Federal Maritime Commission  
800 North Capitol Street, N.W.  
Washington, D.C. 20573  
Attn: Office of the Secretary  
Attn: Karen V. Gregory

Re: *Igor Ovchinnikov, et al, v. Michael Hitrinov a/k/a Michael Khitrinov, et al.*  
FMC Docket 15-11

*Kairat Nurgazinov, v. Michael Hitrinov a/k/a Michael Khitrinov, et al.*  
FMC Informal Docket 1953(I)

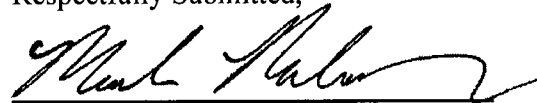
Dear Ms. Gregory:

I represent the Complainants in the above referenced matters.

Attached, please find an original and five copies of Complainants' Reply to Respondents' Response to Complainants' Motion to Supplement the Record. Respondents have been additionally served herein via First Class Mail.

We thank the Commission for its continued courtesy and consideration.

Respectfully Submitted,



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